

COMMISSIONERS APPROVAL

ROKOSCH *JLR*

GRANDSTAFF *Cg*

THOMPSON *AT*

CHILCOTT *g*

DRISCOLL *LD*

PLETTENBERG (Clerk & Recorder)

Date.....August 30, 2007

Members Present.....Commissioner Jim Rokosch,  
Commissioner Carlotta Grandstaff, Commissioner Alan Thompson, Commissioner Greg  
Chilcott and Commissioner Kathleen Driscoll

Minutes: Beth Farwell

The Board met for a public meeting regarding Stevi Flats (Twite) Major Subdivision.  
Present were Planner John Lavey, Owner Scott Twite, PCI Representatives Gilbert  
Larson and Bill Burnett.

Commissioner Rokosch called the meeting to order and requested the Planning Staff  
Report. John gave the Staff Report as follows:

**STEVI FLATS (TWITE)  
TWENTY-LOT MAJOR SUBDIVISION**

**STAFF REPORT FOR BOARD OF COUNTY COMMISSIONERS**

**CASE PLANNER:** John Lavey

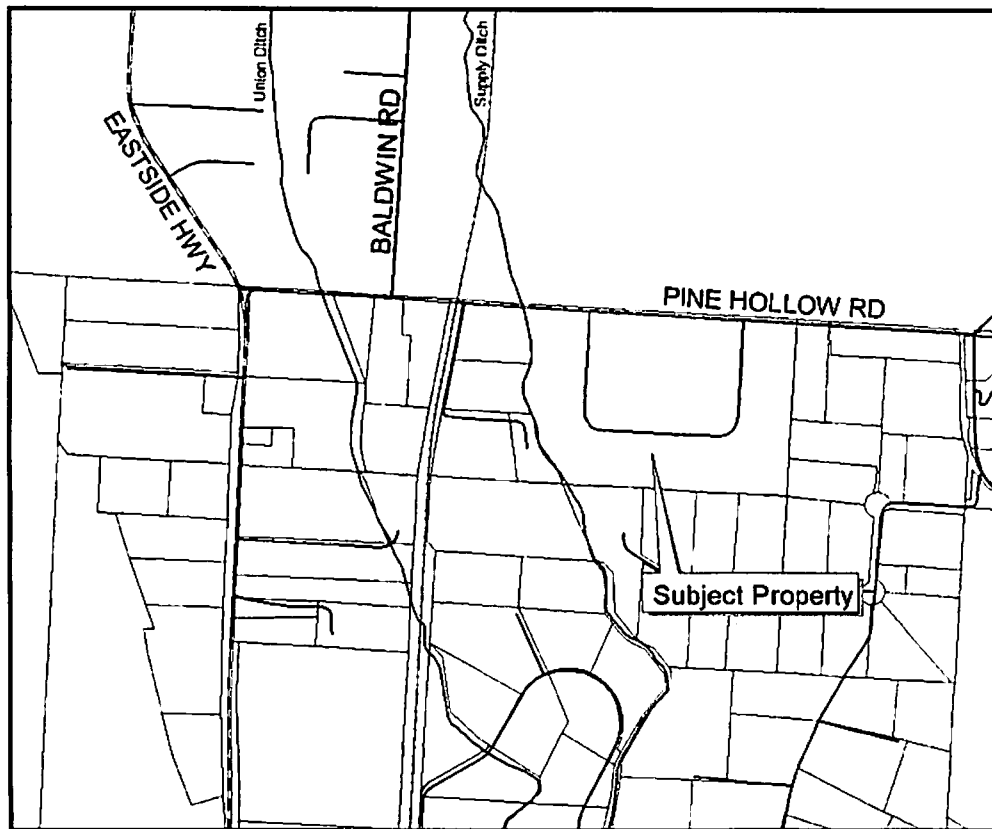
**REVIEWED/  
APPROVED BY:** Renee Van Hoven

**PUBLIC HEARINGS/  
MEETINGS:** BCC Public Hearing: 9:00 a.m. August 30, 2007  
Deadline for BCC action (60 working days): October 3, 2007

**SUBDIVIDER/OWNER:** Scott Twite  
4610 Nicole Ct  
Missoula, MT 59803

**REPRESENTATIVE:** Professional Consultants, Inc. 363-1201  
Bill Burnett  
1713 N. 1<sup>st</sup> Street  
Hamilton, MT 59840

**LOCATION OF REQUEST:** The property is located south of Stevensville  
off Pine Hollow Road (See Map 1)



**Map 1: Location Map**  
(Source Data: Ravalli County GIS Department)

**LEGAL DESCRIPTION****OF PROPERTY:**

Lot 1 and portion of Lot 2, NE ¼ Section 3, T8N, R20W, P.M.M., Ravalli County, Montana.

**APPLICATION****INFORMATION:**

The subdivision application was determined complete on July 10, 2007. Agencies were notified of the subdivision and comments received by the Planning Department not included in the application packet are Exhibits A-1 through A-12 of the staff report. **This subdivision is being reviewed under the subdivision regulations amended May 24, 2007.**

**LEGAL NOTIFICATION:**

A legal advertisement was published in the Ravalli Republic on Tuesday, August 14, 2007. Notice of the project was posted on the property and adjacent property owners were notified by certified mail postmarked August 15, 2007. No public comments have been received to date.

**DEVELOPMENT****PATTERN:**

Subject property	Agriculture and Large Lot Residential
North	Agriculture and Large Lot Residential
South	Residential & Agriculture
East	Residential & Agriculture
West	Residential & Agriculture

**INTRODUCTION**

The Stevi Flats major subdivision is located south of the Town of Stevensville on Pine Hollow Road. The proposal calls for 20 lots on roughly 60 acres. The supply ditch forms the western property boundary and the applicant is required and proposing to install safety fencing along its length to help protect public health and safety. The property is allocated a small share of irrigation water rights from the Supply Ditch, and the applicant is proposing to distribute these shares to only the Lots 16 through 20 that border the ditch. Cash in lieu of parkland dedication is proposed, and the Ravalli County Parks board concurs with this proposal. There are no variance requests.

*Staff recommends conditional approval of the subdivision proposal.*

RAVALLI COUNTY BOARD OF COUNTY COMMISSIONERS

AUGUST 30, 2007

STEVİ FLATS  
TWENTY-LOT MAJOR SUBDIVISION

**RECOMMENDED MOTION**

That the Stevi Flats Major Subdivision be ***approved***, based on the findings of fact and conclusions of law in the staff report and subject to the conditions in the staff report.

**RECOMMENDED MITIGATING CONDITIONS OF APPROVAL FOR THE SUBDIVISION**

1. A document entitled "Notifications to Future Property Owners" that includes the following notifications and the attachments listed below shall be included in the submittal of the final plat to the Planning Department and filed with the final plat:

***Notification of Proximity to Agricultural Operations.*** This subdivision is located near existing agricultural activities. Some may find activities associated with normal agricultural activities objectionable and dangerous. *(Effects on Agriculture)*

***Limitation of Access onto a Public Road.*** A "no-ingress/egress" restriction exists along the Pine Hollow frontage of this subdivision, excepting the approved approaches for the internal subdivision road. All lots within this subdivision must use these approved approaches. Additionally, no ingress/egress zones are located along the length of the "Private Access and Utility Easements" providing access to Lots 2 and 3. This limitation of access may be lifted or amended only with the approval of the Board of County Commissioners. *(Effects on Local Services and Public Health and Safety)*

***Notification of Road Maintenance Agreement.*** The internal subdivision road is not maintained by Ravalli County, the State of Montana, or any other governmental entity. Neither the County nor the State assumes any liability for lacking or improper maintenance. A Road Maintenance Agreement for this road was filed with this subdivision and outlines which parties are responsible for maintenance and under what conditions. *(Effects on Local Services)*

***Notification of Storm Water Drainage Easements.*** Within this subdivision there is a storm water drainage easement along the boundary of Lots 16 and 17. No structure or obstruction may be placed within this easement that is not required for storm water management. *(Effects on Local Services and Natural Environment)*

***Notification of Irrigation Facilities and Easements.*** Within this subdivision there are irrigation easements, as shown on the final plat. All downstream water-right holders have the right to maintain and repair their irrigation

facilities whenever necessary to keep them in good condition. The filed subdivision plat shows the irrigation easements on the property. The Supply Ditch must approve any relocation or alteration (e.g. installation of a culvert) of irrigation ditches/pipelines. Any act that damages or destroys a ditch, interferes with its operation or maintenance in any way, or restricts access to the ditch so as to interfere with its maintenance is expressly prohibited. The downstream water right holders and those acting with the approval of the Supply Ditch have the right to use the easements to maintain the ditches. Please contact the Supply Ditch, PO Box 513, Stevensville, Montana, 59870, 642-6030 for more information. *(Effects on Agricultural Water User Facilities)*

***Notification of Water Rights.*** Residents within this subdivision do not currently have the right to take irrigation water out of the irrigation ditch adjoining Lots 11 through 13. Taking water without a water right for any purpose is illegal. Residents should consult with the Montana Department of Natural Resources for questions on water rights. *(Effects of Agricultural Water User Facilities)*

***Notification of Proximity to Montana Rail-Link Railroad.*** This subdivision is located approximately 500 feet from the Montana Rail-Link railroad grade. Standard operation of the railroad can include elevated noise levels, exhaust fumes, and engine headlights, which may be objectionable to some people. In addition, there are inherent hazards associated with railroad operations. Every train that uses this railroad track will sound a warning whistle for the Pine Hollow Road grade crossing, as required by federal law. *(Effects on Public Health & Safety)*

***Notification of Proximity to a Potential Dam Inundation Area in the Event of a Catastrophic Failure of the Burnt Fork Dam.*** The northern portion of the subdivision may be located within the dam inundation area for the Burnt Fork Dam. For more information please contact the Sunset Irrigation District (3221 Miller Hill Rd, Stevensville, MT 59870). A map of the probable extent of the inundation area is included as an exhibit to this document [the subdivider shall include the exhibit as an attachment]. *(Effects on Public Health and Safety)*

***Notification of Burnt Fork Creek 100-year Alluvial Fan Flood Hazard Zone.*** The entire Stevi Flats subdivision is located within the Burnt Fork Creek 100-year Alluvial Fan Flood Hazard Zone. The subdivision is subject to shallow flooding at a depth of one foot and a flow velocity of two feet per second. The covenants for this subdivision require that all structures be built with their first floor elevation at two feet above the existing grade. *(Effects on Public Health and Safety)*

2. Protective covenants for this subdivision shall be submitted with the final plat that include the following provisions:

***Waiver of Protest to Creation of RSID/SID.*** Owners and their successors-in-interest waive all rights in perpetuity to protest the creation of a city/rural improvement district for any purpose allowed by law, including, but not limited to, a community water system, a community wastewater treatment system, and improving and/or maintaining the roads that access the subdivision, including related right-of-way, drainage structures, and traffic control signs. *(Effects on Local Services)*

***Living with Wildlife.*** (See Exhibit A-4 for required provisions.) *(Effects on Agriculture and Wildlife & Wildlife Habitat)*

***Lighting for New Construction.*** To promote public health and safety, reduce energy consumption, and reduce impacts to nocturnal wildlife, full cut-off lighting is recommended for any new construction within this subdivision. A full cut-off fixture means a fixture, as installed, that is designed or shielded in such a manner that all light rays emitted by the fixture, either directly from the lamps or indirectly from the fixture, are projected below a horizontal plane through the lowest point on the fixture where light is emitted. The source of light should be fully shielded on the top and sides, so as not to emit light upwards or sideways, but only allowing light to shine down towards the subject that is to be lighted. For more information, visit [www.darksky.org](http://www.darksky.org). *(Effects on Natural Environment, Wildlife and Wildlife Habitat, and Public Health & Safety)*

***Radon Exposure.*** The owner understands and accepts the potential health risk from radon concentrations, which are presently undetermined at this location. Unacceptable levels of radon can be reduced through building design and abatement techniques incorporated into structures. Property owners are encouraged to have their homes tested for radon. Contact the Ravalli County Environmental Health Department for further information. *(Effects on Public Health & Safety)*

***Control of Noxious Weeds.*** A weed control plan has been filed in conjunction with this subdivision. Lot owners shall control the growth of noxious weeds on their respective lot(s). Contact the Ravalli County Weed District for further information. *(Effects on Agriculture and Natural Environment)*

***Required Posting of County-Issued Addresses for Lots within this Subdivision.*** The Stevensville Rural Fire District has adopted the Uniform Fire Code which requires lot owners to post County-issued addresses at the intersection of the driveway leading to each residence and the road providing access to the lot as soon as construction on the residence begins. *(Effects on Local Services and Public Health & Safety)*

**Access Requirements for Lots within this Subdivision.** The Stevensville Rural Fire District has adopted the Uniform Fire Code. All accesses, including driveways to residences over 150' in length, must have a minimum unobstructed travel surface width of 20', a vertical clearance of 13'6" and an all-weather surface that can accommodate the weight of a fire truck. Please contact the Stevensville Rural Fire District for further information. *(Effects on Local Services and Public Health & Safety)*

**Maintenance of Fencing along Supply Ditch.** The homeowners association shall be responsible for maintaining the safety fencing located along the western subdivision boundary. Each lot owner and the Homeowner's Association shall be responsible for maintaining the portion of the fence on their lot to meet the specifications in Section 5-6-2(b) of the Ravalli County Subdivision Regulations. *(Effects on Public Health & Safety)*

**Structural Requirements for Lots within this Subdivision.** The entire Stevi Flats subdivision is located within the Burnt Fork Creek 100-year Alluvial Fan Flood Hazard Zone. The subdivision is subject to shallow flooding at a depth of one foot and a flow velocity of two feet per second. All structures within this subdivision shall be built with their first floor elevation at two feet above the existing grade. *(Effects on Public Health and Safety)*

**Amendment.** Written governing body approval shall be required for amendments to provisions of the covenants that were required to be included as a condition of subdivision approval. *(Effects on all six criteria)*

3. The subdividers shall include an RSID/SID waiver in a notarized document filed with subdivision plat that states the following: Owners and their successors-in-interest waive all rights in perpetuity to protest the creation of a city/rural improvement district for any purpose allowed by law, including, but not limited to a community water system, a community wastewater treatment system, and improving and/or maintaining the roads that access the subdivision including related right-of-way, drainage structures, and traffic control signs. *(Effects on Local Services)*
4. The subdivider shall provide evidence with the final plat submittal that they have applied for County-issued addresses for each lot within this subdivision. *(Effects on Local Services and Public Health & Safety)*
5. Prior to final plat approval, the subdividers shall provide a letter from the Stevensville Rural Fire District stating that the subdividers have provided the required 1,000 gallon-per-minute water supply or 2,500 gallon-per-lot water storage for fire protection for each lot within this subdivision. Alternatively, the subdividers may provide evidence that a \$500-per-lot contribution has been made to the Stevensville Rural Fire District with the final plat submittal in lieu



of the required water supply or water storage for fire protection. *(Effects on Local Services and Public Health & Safety)*

6. The subdivider shall submit a letter or receipt from the Stevensville School District stating that they have received (an amount to be determined by the BCC in consultation with the subdivider)-per-lot contribution prior to final plat approval. *(Effects on Local Services)*
7. The final plat shall show a no-ingress/egress zone along the Pine Hollow frontage of the subdivision, excepting the approaches for the internal subdivision road, as approved by the Ravalli County Road and Bridge Department. Additionally, a no ingress/egress zone shall be shown on the final plat as shown on the preliminary plat along the "Private Access and Utilities Easements" providing access to Lots 2 and 3. *(Effects on Local Services and Public Health & Safety)*
8. The subdividers shall file a master irrigation plan with the final plat that meets the requirements of Section 3-1-5(a)(xxxv) of the Ravalli County Subdivision Regulations and conforms to the irrigation plan presented in the preliminary plat application. An irrigation delivery system that conforms to the master irrigation plan shall be installed prior to final plat approval. *(Effects on Agricultural Water User Facilities)*
9. The subdivider shall provide 10 feet of irrigation easement along the southern boundary of Lots 11 through 13 for the irrigation ditch located in the Melody Meadows subdivision, which is south of the subject property on the final plat. *(Effects on Agricultural Water User Facilities)*
10. All existing and proposed irrigation infrastructure and associated easements shall be shown on the final plat as they were shown on the preliminary plat. *(Effects on Agricultural Water User Facilities)*
11. In conjunction with the recorded notification of water rights, the final plat shall show a notification stating: "Residents within this subdivision do not currently have the right to take irrigation water out of the irrigation ditch adjoining lots 11 through 13 of this subdivision. Taking water without a water right for any purpose is illegal. Residents should consult with the Montana Department of Natural Resources for questions on water rights." *(Effects on Agricultural Water User Facilities)*
12. The internal subdivision road shall be labeled as a "public road and utility easement" on the final plat. *(Effects on Local Services)*
13. Stop signs and road name signs shall be installed at both intersections of the internal subdivision road with Pine Hollow prior to final plat approval. *(Effects on Local Services and Public Health and Safety)*
14. The Road Maintenance Agreement for the internal subdivision road shall include a provision outlining the maintenance of the drainage swale/easement between Lots 16 and 17. *(Effects on Local Services)*



15. The subdivider shall abandon the existing driveway that accesses Lot 1 off Pine Hollow Road. *(Effects of Local Services)*
16. The following statement shall be shown on the final plat: "If any archaeological, historic, or pale ontological sites are discovered during road, utility, or building construction, all work will cease and the State Historic Preservation Office shall be contacted to determine if the find constitutes a cultural resource and if any mitigation or curation is appropriate". *(Effects on the Natural Environment)*
17. The subdivider shall submit a (amount)-per-lot contribution to the Ravalli County Treasurer's Office to be deposited into account for the Sheriff's Office prior to final plat approval. *(Effects on Local Service and Public Health and Safety)*
18. The subdivider shall finish the entire stretch of drainage easement between Lot 16 and 17 with topsoil and certified weed free grass seed prior to final plat approval. *(Effects on Agricultural Water User Facilities and the Natural Environment)*
19. The subdivider shall provide evidence with the final plat submittal that dust abatement has been applied to the "Private Access and Utility Easements" located on Lots 1 and 4. *(Effects on the Natural Environment)*
20. The Road Maintenance Agreement shall include a provision stating that dust abatement shall be applied to the "Private Access and Utility Easements" located on Lots 1 and 4 as needed. *(Effects on Natural Environment)*
21. The applicants shall provide evidence that plans for a Collection Box Unit (CBU), including location of the box and specifications, have been approved by the local post office prior to final plat approval. *(Effects on Local Services)*
22. Prior to final plat approval, the subdivider shall provide evidence from the Ravalli County Environmental Health Department that the existing septic system on Lot 1 has been improved to meet today's standards, which will include the installation of a new drain field. *(Effects on the Natural Environment and Public Health and Safety)*
23. The following statement shall be shown on the final plat: "This subdivision is located within the Burnt Fork Creek 100-year Alluvial Fan Flood Hazard Zone. All structures within this subdivision shall be built with their first floor elevation at two feet above the existing grade". *(Effects on Public Health and Safety)*

## **SUBDIVISION REPORT**

### **COMPLIANCE WITH PREREQUISITES TO APPROVAL**

Section 3-2-8(a) of the RCSR states that the BCC shall not approve or conditionally approve a subdivision application and preliminary plat unless it establishes by credible evidence that the proposed subdivision meets the following requirements:

**A. Provides easements for the location and installation of any planned utilities.**

**Findings of Fact**

1. The preliminary plat indicates that existing utility easements are located along Pine Hollow Road. Utility easements are proposed along the internal subdivision road, Dietz Drive, and along the two driveways servicing Lots 2 and 3, which are shown on the preliminary plat as "Private Access and Utility Easements".
2. Section 3-4-4(a)(ii) of the RCSR requires that the existing and proposed utility easements are shown on the final plat.

**Conclusion of Law**

The proposed subdivision application provides for utility easements.

**B. Provides legal and physical access to each parcel within the subdivision and the notation of that access is included on the applicable plat and in any instrument transferring the parcel.**

**Findings of Fact**

1. The subject property is accessed by Eastside Highway, Pine Hollow Road, and the internal road (Dietz Drive).
2. Pine Hollow Road is listed as a County-maintained road in Exhibit A of the RCSR.
3. The applicant is proposing a 60-foot wide public road and utility easement for Dietz Drive, which is proposed to serve the lots within the subdivision. Section 3-4-4(a)(ii) of the RCSR requires that public road and utility easements are shown on the final plat.
4. The applicant is proposing two "Private Access and Utility Easements" across Lots 1 and 4 to serve Lots 2 and 3.

**Conclusion of Law**

Legal and physical access is provided on Pine Hollow Drive, the internal subdivision road, and two "Private Access and Utility Easements".

**C. Assures that all required public or private improvements will be installed before final plat approval, or that their installation after final plat approval will be guaranteed as provided by Section [3-4-2] of these regulations.**

**Findings of Fact**

1. The applicant is proposing to construct the internal subdivision road within the subdivision to meet County standards.
2. The applicant is proposing and is required by Section 5-6-2(b) of the RCSR to install a safety fence along the length of the supply ditch along the western property boundary.
3. The BCC may impose additional conditions that may include improvements to mitigate negative impacts of the subdivision.
4. Section 3-4-4(a)(xxvi) requires that the applicant submit evidence that improvements have been made in accordance with the conditions of approval and requirements of final plat approval and certified by the subdivider prior to final plat approval.

#### Conclusion of Law

The final plat requirements or an improvements agreement and guaranty will ensure that all improvements are installed.

- D. Assures that the requirements of 76-3-504(1)(j), MCA, regarding the disclosure and disposition of water rights as set forth in Chapter 5 have been considered and will be accomplished before the final plat is submitted.**

#### Finding of Fact

1. The application states that the property has water rights from the Supply Ditch.
2. The application states that seven inches of irrigation water is available to the subject property from the Supply Ditch.
3. The irrigation rights associated with the Supply Ditch are proposed to be split evenly between Lots 16 through 20. Section 3-4-4(a)(xx) requires that a master irrigation plan that meets the provisions in Section 3-1-5(a)(xxxv) and conforms to the irrigation plan presented in the preliminary plat application is submitted prior to final plat approval. Section 3-4-4(a)(xxvi) requires that all improvements are completed prior to final plat approval.

#### Conclusion of Law

The subdivider has provided appropriate documentation regarding the disclosure and disposition of all water rights appurtenant to the property.

- E. Assures that the requirements of 76-3-504(1)(k) MCA, regarding watercourse and irrigation easements as set forth in Chapter 5 have been considered and will be accomplished before the final plat is submitted.**

#### Findings of Fact

1. The Supply Ditch forms the western property boundary. An existing 60-foot-wide easement is located along the length of the Ditch as it adjoins the property. (*Agricultural Water User Facilities*)

2. According to the application and the preliminary plat, the applicant is proposing a 20-foot wide irrigation easement adjoining the Supply Ditch that traverses the western portion of the subdivision.
3. An existing 20-foot-wide irrigation easement traverses neighboring properties in the Melody Meadows subdivision. However, when the easement reaches the eastern boundary of the subject property, it is reduced to 10 feet in width (see preliminary plat). As a condition of final plat approval and to improve accessibility by agricultural water users, the applicant shall provide 10 feet of irrigation easement on Lots 11 through 13. (*Condition 9 and Agricultural Water User Facilities*)
4. Section 3-4-4(a)(ii)(V) requires that the irrigation easement be shown on the final plat.
5. The placement of structures or the planting of vegetation other than grass within the ditch easement is prohibited in 76-3-504(1)(k) MCA, without the written permission of the ditch owner (Supply Ditch). To meet this requirement, the applicant shall place a notification within the Notifications Document that permission from the Supply Ditch is required for any alterations within the irrigation easement.

#### Conclusion of Law

With the requirements of final plat approval, the placement of irrigation easements will be accomplished.

#### **F. Provides for the appropriate park dedication or cash-in-lieu, if applicable.**

##### Findings of Fact

1. The application states that 2.5 acres are required to meet the parkland dedication requirement.
2. The applicant is proposing to donate cash-in-lieu of dedicating parkland.
3. In a letter dated June 14, 2007, the Ravalli County Park Board stated their concurrence with the subdividers cash-in-lieu of parkland proposal. (Exhibit A-2)
4. In accordance with 76-3-621(4), MCA, "the governing body, in consultation with the subdivider and the planning board or park board that has jurisdiction, may determine suitable locations for parks, playgrounds and giving due weight and consideration to the expressed preference of the subdivider, may determine whether the park dedication must be a land donation, cash donation, or a combination of both. When a combination of land donation and cash donation is required, the cash donation may not exceed the proportional amount not covered by the land donation." (See also Section 6-1-5(e), RCRS)

#### Conclusion of Law

The applicant has proposed parkland dedication that meets State Law and is suitable to the Park Board

**G. Overall Findings and Conclusions on Prerequisite Requirements**

Finding of Fact

There is adequate evidence to demonstrate compliance with each prerequisite to approval.

Conclusion of Law

There is adequate evidence to demonstrate compliance with each prerequisite to approval.

**COMPLIANCE WITH APPLICABLE REGULATIONS**

Section 3-2-8(b) of the RCSR states that in approving, conditionally approving, or denying a subdivision application and preliminary plat, the BCC shall ensure the subdivision application meets Section 3-2-8(a) above, and whether the proposed subdivision complies with:

**A. These regulations, including, but not limited to, the standards set forth in Chapter 5.**

Findings of Fact

1. The lot layout as indicated on the preliminary plat appears to meet the design standards in Chapter 5 of the RCSR.
2. The road design has been approved by the Ravalli County consulting engineers and meets the applicable standards in the RCSR.
3. This development plan proposal has followed the necessary application procedure and has been reviewed within the procedures provided in Chapter 3 of the Ravalli County Subdivision Regulations.

Conclusion of Law

The preliminary plat and subdivision application meet all applicable standards required in the RCSR.

**B. Applicable zoning regulations.**

Findings of Fact

1. The subject property is under the jurisdiction of the interim zoning regulation limiting subdivisions to a density of one dwelling per two acres (recorded as Resolution 2038). The application complies with Resolution 2038.
2. The property is not within one of the voluntary zoning districts in Ravalli County.

Conclusion of Law

This proposal appears to comply with existing zoning regulations.

**C. Existing covenants and/or deed restrictions.**

Finding of Fact

There are no existing covenants or deed restrictions on the property.

Conclusion of Law

There are no covenants that apply to this property.

**D. Other applicable regulations.**

Finding of Fact

The subdivision proposal appears to comply with the following applicable regulations:

- Montana Subdivision and Platting Act, Title 76, Chapter 3, MCA
- Montana Sanitation in Subdivisions Act, Title 76, Chapter 4, MCA
- Ravalli County Subsurface Wastewater Treatment and Disposal Regulations
- Montana Standards for Subdivision Storm Drainage (DEQ Circular 8)
- Applicable laws and policies requiring permits related to development (U.S. Army Corps of Engineers, Bitterroot Conservation District, Ravalli County Road & Bridge Department, Montana Department of Transportation, Montana Department of Environmental Quality, etc.)

Conclusion of Law

The subdivision proposal appears to comply with other applicable regulations.

**E. The MSPA, including but not limited to an evaluation of the impacts of the subdivision on the following criteria:**

**CRITERION 1: EFFECTS ON AGRICULTURE**

Findings of Fact:

1. The proposed major subdivision on 58.95 acres will result in 20 lots that range in size from 2.06 acres to 3.8 acres. The property is located approximately 1 mile south of the town of Stevensville off Eastside Highway.
2. The property is located in an area of residential and agricultural uses. To mitigate impacts on agriculture, a notification of proximity to agricultural operations shall be included in the notifications document filed with the final plat. The protective covenants, also filed with the final plat, shall include a provision requiring homeowners to keep pets confined to the house, a fenced yard, or in an outdoor kennel. (*Conditions 1 and 2*)
3. According to the application, the property is currently being used as a hayfield.
4. The Natural Resources and Conservation Service (NRCS) *Web Soil Survey for Ravalli County* identifies a soil type that is listed as Farmland of Local Importance on the entirety of the property (Map Unit 157B). Given that the subdivision is proposed for residential use, it is not likely this soil type will be used for agriculture.
5. The entire property is covered by soil types listed as Farmland of Local Importance. In a conversation with Jay Skovlin, local NRCS soil scientist, Mr. Skovlin stated that the Farmland of Local Importance classification was not



intended to be used to determine important agricultural land. It is the lowest tier of farmland soils and the criteria have a low threshold so this classification does not show the most productive soils in the Valley. The classification will be used as a preliminary screening tool for the Farm and Ranch Land Protection Program. Mr. Skovlin will be writing the County a letter to summarize this information.

6. The applicant has provided a "Ground Disturbance and Noxious Weed Management Plan" that prescribes several methods of managing noxious weeds on site. A covenant shall be included with the final plat submittal that mandates each lot owner control the growth of noxious weeds on their lot.  
(Condition 2)

Conclusions of Law:

1. With the mitigating conditions of approval and requirements of final plat approval, impacts of the subdivision on surrounding agriculture will be reduced.
2. The creation of these lots will not take Prime Farmland or Farmland of Statewide Importance out of production.

**CRITERION 2: EFFECTS ON AGRICULTURAL WATER USER FACILITIES**

Findings of Fact

1. The application states there are water rights associated with this property and the subdivider is proposing to divide the rights between Lots 16 through 20. The Supply Ditch, which traverses the western property boundary, will provide Lots 16 through 20 with access to irrigation.
2. According to the application and the preliminary plat, there is a 60-foot wide existing irrigation easement centered on the Supply Ditch. The Supply Ditch serves property to the north and south of the subject property.
3. To provide lot owners with access to their irrigation rights, the applicant is proposing an additional 20 feet of easement along the length of the Supply Ditch.
4. An existing 20-foot-wide irrigation easement in the Melody Meadows subdivision to the east and south of the subject property. When the easement reaches the southeast corner of the subject property, it is reduced to 10 feet in width (see preliminary plat). As a condition of final plat approval and to improve accessibility by agricultural water users, the applicant shall provide an additional 10 feet of irrigation easement on Lots 11 through 13 directly abutting the existing irrigation easement in the Melody Meadows subdivision.  
(Condition 9 and Agricultural Water User Facilities)
5. To mitigate impacts on agricultural water user facilities, the existing and proposed locations of all irrigation facilities/ditches within their associated easements shall be shown on the final plat. (Condition 10)
6. The subdivider is proposing a drainage swale/easement between Lots 16 and 17 to prevent the overtopping of roads and properties in the event of a heavy rain. In a conversation with Jon Gass of WGM Group, Inc., (road review engineer contracted by the County) on August 14, 2007, planning staff learned that vegetation in drainage swales assists in particulate filtration and storm water detention. It is unclear in the application whether the subdivider is

proposing to vegetate the drainage swale/easement. To prevent excess sediment from entering the ditch, and to mitigate impacts on agricultural water user facilities and on the natural environment, the subdivider shall finish the entire stretch of drainage easement between Lot 16 and 17 with topsoil and certified weed free grass seed prior to final plat approval. (*Condition 18*)

7. To help mitigate impacts on agricultural water users, the notifications document shall include the following statement: "Residents within this subdivision do not currently have the right to take irrigation water out of the irrigation ditch adjoining lots 11 through 13 of this subdivision. Taking water without a water right for any purpose is illegal. Residents should consult with the Montana Department of Natural Resources for questions on water rights." This statement shall also appear on the final plat. (*Conditions 1 and 11*)
8. A preliminary Irrigation Agreement and Master Irrigation Plan are included in the application. To mitigate impacts on agricultural water user facilities, a Master Irrigation Plan meeting the requirements of Section 3-1-5(a)(xxxv) of the RCSR, which would include a plat-sized plan and irrigation agreement, shall be submitted prior to final plat approval. (*Condition 8*)
9. To notify future property owners and mitigate potential impacts on agricultural water user facilities, a notification of the irrigation ditches and easements shall be filed with the final plat. (*Condition 1*)
10. In accordance with section 3-4-4(a)(xxi) of the Ravalli County Subdivision Regulations, a notarized statement from each downstream water user specifically authorizing any alteration/relocation of existing irrigation infrastructure must be included with the final plat.

#### **Conclusion of Law:**

With the mitigating conditions of approval and requirements of final plat approval, impacts on agricultural water user facilities will be reduced.

#### **CRITERION 3: EFFECTS ON LOCAL SERVICES**

##### **Findings of Fact:**

1. With this subdivision, it is estimated that approximately 10 school-aged children will be added to the Stevensville School District, assuming an average of 0.5 children per household (source: Census 2000).
2. The subdivider has not offered a voluntary contribution to the School District. In a letter dated January 31, 2007, [Exhibit A-1] the Stevensville School District commented that space is available for the increase in the student population, and did not request a monetary contribution. To mitigate impacts of the subdivision on the School District, the subdivider shall contribute (an amount to be determined by the Board of County Commissioners in consultation with the subdivider) per residential lot to the Stevensville School District. (*Condition 6*)
3. There are twenty (20) proposed single family residential lots within this subdivision. It is estimated at build-out that this subdivision will generate an additional 152 vehicular trips per day, assuming 8 trips per day per single-family dwelling.
4. Pine Hollow Road, a County-maintained road providing access to the subdivision, does not meet County standards. The applicant is required to pay the pro-rata share

of the cost to improve the portion of Pine Hollow Road providing access to the subdivision to meet County standards.

5. The subdivider is proposing to construct one internal subdivision road to provide service to all the lots within the subdivision. The application packet states that the internal road is proposed to meet County standards and have a 32-foot-wide asphalt paved travel surface with curb and gutter within a 60-foot-wide utility easement. Lots 2 and 3 will gain access from a "Private Access and Utility Easement" traversing Lots 1 and 4 respectively.
6. An engineer's certification that the internal subdivision road meets County standards is a requirement of final plat approval. The road plans have received preliminary approval by the Road Department. (*Exhibit A-12*)
7. A preliminary road maintenance agreement was included in the application packet. The final plat application packet is required to include a road maintenance agreement that meets the requirements of the Ravalli County Subdivision Regulations. A notification of the road maintenance agreement shall be included in the notifications document filed with the final plat. (*Condition 1*)
8. To ensure that the drainage swale/easement centered on the boundary between Lots 16 and 17 is maintained, the road maintenance agreement shall include a provision outlining the maintenance of the drainage swale/easement between Lots 16 and 17. (*Condition 14*)
9. To mitigate impacts on the local road system, the final plat shall show a no-ingress/egress zone along the Pine Hollow Road frontage of the subdivision, excepting the Ravalli County Road and Bridge Department (RCRBD) approved approaches for the internal subdivision road. A notification of this limitation of access shall be included in the notifications document. (*Conditions 1 and 7*)
10. To help mitigate impacts on local services, a stop sign and road name sign shall be installed at both intersections of the internal subdivision road with Pine Hollow Drive prior to final plat approval. (*Condition 13*)
11. To mitigate impacts on local services and ensure public access, the easement for the internal subdivision road shall be labeled as a public road and utility easement on the final plat. (*Condition 12*)
12. To mitigate impacts on local services, the subdivider shall apply for County-issued addresses. A provision requiring property owners to post County-issued addresses at their driveways shall be in the covenants. (*Conditions 2 and 4*)
13. To provide for fewer accesses on Pine Hollow Road and to mitigate impacts on local services, the subdivider shall abandon the existing driveway that accesses the existing house on Lot 1. (*Condition 15*)
14. Submittal of a final grading and drainage plan approved by Montana Department of Environmental Quality (DEQ), a General Discharge Permit for Storm water Associated with Construction activity from DEQ (if required), and an approved approach permit from the Ravalli County Road and Bridge Department for the internal subdivision road are required for final plat approval.
15. Installation of all infrastructure improvements is required to be completed prior to final plat approval, which includes construction of the roads and storm water drainage facilities for the internal road, vegetating the drainage swale/easement between Lot 16 and 17, installation of the safety fence along the Supply Ditch, and installation of the stop sign and road name sign.
16. In order to ensure the proper drainage of this subdivision and to mitigate impacts on local services, a notification of storm water drainage easements

shall be included in the notifications document to be filed with the final plat.  
(Condition 1)

17. The Ravalli County Sheriff's Office provides law enforcement services to this area. No comments have been received by the Sheriff's Office. The current level of service is not known, but it is generally understood that the Sheriff's Office is operating at an inadequate level of service. The applicant is not proposing any mitigation. To mitigate impacts on the law enforcement, the subdivider shall submit a (amount)-per-lot contribution to the Ravalli County Treasurer's Office to be deposited into an account for the Sheriff's Office prior to final plat approval. (Condition 17) (Staff Note: Since the current or planned level of service for the Sheriff's Office is unknown and the applicant has not proposed any mitigation, Staff recommends the BCC negotiate an amount per lot with the applicants.)
18. The subdivision is located within the Stevensville Rural Fire District. The Stevensville Rural Fire District has provided comments on previous subdivision proposals indicating they have adopted a policy which addresses access, posting of addresses, and water supply requirements. Conditions of approval will meet the recommendations of the Stevensville Rural Fire District.  
(Conditions 2, 4 and 5)
19. The subdivider shall meet the water supply requirements for the Stevensville Fire District, which is a 1,000 gallon per minute water supply or a 2,500 gallon per lot water storage. Alternatively, the subdivider can contribute \$500 per lot and provide a letter from the Stevensville Fire District that the contribution has been made prior to final plat approval. (Condition 5)
20. The United States Postal Service (USPS) sent a letter to the Planning Department on June 8, 2007 and an email on June 29, 2007 requesting that Collection Box Units (CBUs) be required for all subdivisions with eight or more lots (or if the local post office requests a CBU) and that the locations of the boxes be approved by the USPS (Exhibit A-5). To mitigate impacts on local services, the applicants shall provide evidence that plans for a CBU (location and specifications) have been approved by the local post office.  
(Condition 21)
21. To mitigate potential impacts of this subdivision on any possible future public water, sewer system, or improvements to the road system, the RSID/SID waiver filed with the final plat shall address these services/facilities.  
(Conditions 2 and 3)
22. Bitterroot Disposal provides service to this site.
23. Individual wells and wastewater treatment systems are proposed to serve the lots.

#### Conclusion of Law:

With the mitigating conditions of approval and requirements of final plat approval, impacts of the subdivision on local services will be reduced.

#### **CRITERION 4: EFFECTS ON NATURAL ENVIRONMENT**

##### Findings of Fact:

1. The property currently accesses off Pine Hollow Road, a County-maintained paved road. The applicant is proposing a paved internal road to provide access to lots within the subdivision. However, Lots 2 and 3 will gain access to their property from the internal subdivision road via "Private Access and Utility Easements", or

driveways, that traverse Lots 1 and 4 respectively. Fugitive dust is likely to occur on these gravel driveways as vehicles travel across them. To reduce the level of air pollution caused by fugitive dust, and to mitigate impacts on the natural environment, dust abatement shall be applied to both "Private Access and Utility Easements" once before final plat approval, and the Road Maintenance Agreement shall include a provision stating that dust abatement shall be applied to the "Private Access and Utility Easements" located on Lot 1 and 4 as needed. (*Conditions 19 and 20*)

2. The subdivider is proposing a drainage easement between Lots 16 and 17 to prevent water from overtopping roads and properties in the event of a heavy rain. The drainage easement empties into the Supply Ditch. It is unclear in the application whether or not the subdivider is proposing to vegetate the easement. In a conversation with Jon Gass of WGM Group, Inc., (road review engineer contracted by the County) on August 14, 2007, planning staff learned that vegetation in drainage swales assists in particulate filtration and storm water detention. To prevent excess sediment from entering the ditch, and to mitigate impacts on agricultural water user facilities and on the natural environment, the subdivider shall finish the entire stretch of drainage easement between Lot 16 and 17 with topsoil and certified weed free grass seed prior to final plat approval. (*Condition 18*)
3. In order to ensure the proper drainage of this subdivision and to mitigate impacts on the natural environment, a notification of storm water drainage easements shall be included in the notifications document to be filed with the final plat. (*Condition 1*)
4. The application states that there are no known sites of historical significance on the property. To mitigate possible impacts on sensitive historical, cultural, archaeological, pale ontological, and/or scenic sites, the following statement shall be shown on the final plat: "If any archaeological, historic, or pale ontological sites are discovered during road, utility, or building construction, all work will cease and the developer will contact the State Historic Preservation Office to determine if the find constitutes a cultural resource and if any mitigation or curation is appropriate". (*Condition 16*)
5. The Montana Natural Heritage Program has identified that the sensitive species State Champion Red Ash Tree (*Fraxinus pennsylvanica*), may be located in the same section of land in which the subdivision is located. Because there is no habitat on the property suitable for the tree, the subdivider requested and received a waiver from the requirement to submit a sensitive species report.
6. The Ravalli County Environmental Health Department provided documentation indicating that they have received adequate information for local subdivision review to occur. (*Exhibit A-7*)
7. There is an existing residence on proposed Lot 1 that does not appear to have a current septic permit. According to the Montana Cadastral Mapping website, the home was constructed in 1965.<sup>1</sup> In a conversation with Dan Hooten, Ravalli County Environmental Health (RCEH) staff, on August 15, 2007, Staff learned that Ravalli County had no regulations governing the permitting or installation of septic systems in 1965. As such, the Environmental Health Department has no record of the type of

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<sup>1</sup> Data source: <http://gis.mt.gov/>

septic system currently serving the home on Lot 1. To help mitigate effects on the natural environment, prior to final plat approval, the subdivider shall provide evidence from the RCEH that the existing septic system on Lot 1 has been improved to meet the current standards, which will include the installation of a new drain field.

(Condition 22)

8. An approved noxious weed and vegetation control plan is required to be filed with the final plat for each phase. According to MCA 7-22-2152, any person proposing a development that needs state or local approval and that results in the potential for noxious weed infestation within a weed district shall notify the weed board at least 15 days prior to activity. Consequently, 15 days prior to activities requiring a revegetation plan, such as road construction, the plan shall be submitted to the weed board for approval by the board. The subdivider has proposed a provision in the covenants that the owners of each lot control noxious weeds. To mitigate impacts on the natural environment, a noxious weed control provision shall be included in the protective covenants filed with the final plat for this subdivision. (Condition 2)
9. To mitigate the impacts of light pollution stemming from new construction, the protective covenants shall include a provision recommending full cut-off lighting on new construction. (Condition 2)
10. Individual wells and wastewater treatment systems are proposed to serve lots within the subdivision. A Certificate of Subdivision Plat Approval from Montana Department of Environmental Quality (DEQ) is required to be submitted with the final plat.

#### Conclusion of Law:

Impacts from this subdivision on the natural environment will be reduced with the mitigating conditions and requirements of final plat approval.

#### **CRITERION 5: EFFECTS ON WILDLIFE & WILDLIFE HABITAT**

##### Findings of Fact:

A letter from Montana Fish, Wildlife, and Parks (FWP) recommends that "Living with Wildlife" provisions be included with the covenants for this subdivision. (Exhibit A-4) (Condition 2)

To mitigate the impacts of light pollution stemming from new construction, the protective covenants shall include a provision recommending full cut-off lighting on new construction. (Condition 2)

The property is not located within big-game winter range, as identified by Montana Fish, Wildlife, and Parks.

The property was identified as being in the same section that the sensitive species Western Spotted Skunk (*Spilogale gracilis*), Bobolink (*Dolichonyx oryzivorus*), and Barn Owl (*Tyto alba*) could be located in. Because the property does not provide suitable habitat for any of the above-named species, the subdividers requested and received a waiver from the requirement to submit a sensitive species report.

#### Conclusion of Law:

With the mitigating conditions of approval and requirements of final plat approval, impacts on Wildlife & Wildlife Habitat will be reduced.

#### **CRITERION 6: EFFECTS ON PUBLIC HEALTH & SAFETY**

##### Findings of Fact:



1. The proposed subdivision will be served by the Stevensville Rural Fire District, the Ravalli County Sheriff's Office, and Marcus Daly Memorial Hospital EMS Department. (See *Effects on Local Services*) Conditions 2, 4, 5 and 17 will mitigate public health and safety impacts on the Fire District and Sheriff's Office
2. The property may be located within the Burnt Fork Dam Inundation Area. The mapping of dam inundation areas is based on extremely rough data and may be off by approximately 0.5 mile in any direction. To inform future property owners and to mitigate potential impacts of the subdivision on public health and safety, Staff recommends a notification of the dam inundation area be included in the Notifications document filed with the final plat, and that the notification include an exhibit showing the probable extent of the inundation area. (*Condition 1*)
3. Though the property is located roughly 4000 horizontal feet from South Swamp Creek and approximately two miles from North Burnt Fork Creek, the application states that the subdivision is located within the Burnt Fork Creek 100-year Alluvial Fan Flood Hazard Zone. The application states that the subdivision is subject to shallow flooding at a depth of one foot and a flow velocity of two feet per second. To mitigate effects of potential flooding on the residences within the subdivision, the covenants shall include a provision requiring that the first floor elevation of each home is constructed at two feet above the existing grade. Conditions 1, 2, and 23 will ensure that each home is constructed as proposed. [Staff note: Staff has concerns that the flood hazard zone could pose a significant threat to public health and safety, but little is currently known about its hazard potential. Staff is in the process of contacting the DNRC to determine the level of hazard and possible mitigation strategies.]
4. Unfenced irrigation supply ditches pose a significant and tangible threat to young children when located within a residential setting. The Supply Ditch is considered an irrigation supply ditch, as opposed to a lateral ditch or smaller ditch, in which case the fencing requirement of Section 5-6-2 applies. To mitigate impacts to Public Health & Safety, the covenants shall include a provision requiring the maintenance of the fencing along the Supply Ditch. (*Condition 2*)
5. The property is located approximately 500 feet to the west of the Montana Rail-Link Railroad. To mitigate impacts as a result of the subdivisions proximity to the railroad, a notification of the proximity to the Montana Rail-Link Railroad shall be included in the Notification Document. (*Condition 1*)
6. There is an existing residence on proposed Lot 1 that does not appear to have a current septic permit. According to the Montana Cadastral Mapping website, the home was constructed in 1965.<sup>2</sup> In a conversation with Dan Hooten, Ravalli County Environmental Health (RCEH) staff, on August 15, 2007, planning staff learned that Ravalli County had no regulations governing the placement or installation of septic permits in 1965. As such, the Environmental Health Department has no record of the type of septic system currently serving the home on Lot 1. To help mitigate effects on public health and safety, the subdivider shall prior to final plat approval provide

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<sup>2</sup> Data source: <http://gis.mt.gov/>

evidence from the RCEH that the existing septic system on Lot 1 has been improved to meet current standards, which will include the installation of a new drain field. (*Condition 22*)

7. To mitigate impacts on the public's health and safety, the final plat shall show a no-ingress/egress zone along the Pine Hollow Road frontage of the subdivision, excepting the Ravalli County Road and Bridge Department (RCRBD) approved approaches for the internal subdivision road. A notification of this limitation of access shall be included in the notifications document. (*Conditions 1 and 7*)
8. To help mitigate impacts on public health and safety, a stop sign and road name sign shall be installed at both intersections of the internal subdivision road with Pine Hollow Drive prior to final plat approval. (*Condition 13*)
9. To mitigate impacts on public health & safety, the subdivider shall apply for County-issued addresses and a provision requiring property owners to post County-issued addresses at their driveways shall be in the covenants. (*Conditions 2 and 4*)
10. The proposed subdivision is located within the Stevensville Rural Fire District. Conditions 2, 4 and 5 address impacts to the District.
11. With the conditions and requirements of final plat approval, access to the subdivision will be adequate for Public Health & Safety. (*Effects on Local Services and Conditions 1, 2, 4, 7, 12, 13, and 15*)
12. To mitigate the impacts of light pollution stemming from new construction, the protective covenants shall include a provision recommending full cut-off lighting on new construction. (*Condition 2*)
13. There is a prevalence of radon in the County and to mitigate impacts on Public Health & Safety, the covenants shall include a statement regarding radon exposure. (*Condition 2*)
14. Individual wells and wastewater treatment systems are proposed for lots within this subdivision. (*Natural Environment*)

#### Conclusion of Law:

The mitigating conditions and requirements of final plat approval will address impacts on Public Health & Safety.

Commissioner Rokosch requested any comments or questions from the Board regarding the Staff Report, hearing none he called for public comment.

Gilbert Larson from PCI stated although there were several issues that came up, they were able to resolve almost every issue prior to the meeting today. They were able to meet the requirements and recommendations. There are a few items he would like to add information to. The drainage swale will be grassy and will be vegetated. It is also proposed to function during a very large storm event. They have curbs and gutters that will be placed in the subdivision and have drainage sumps for storms to handle run off. Their concerns are the flood possibilities. One; being the close proximity to a potential Dam Inundation area; and two being in a fan flood hazard zone. They are proposing the homes to be built two feet above the ground with a slope for drainage. The only item they

were not able to resolve is on Lots 2 & 3. Their request to have a shared driveway with an access onto Pine Hollow Road. They understand under current regulations this would be prohibited. Gilbert requested this be Condition 7.

Commissioner Rokosch called for any additional public comment.

Richard Laubach, neighboring homeowner on Meadow Road stated he called Mr. Twite regarding the fence between his property and Lot 11. He stated it is a barbed wire fence and has been there since Mr. Dietz owned the property. He has no problem with the fence being on his property; however his concern is when Lots 12 & 13 are sold. This fence is not attractive. He stated he needs this fence for his horses. He would like something in writing to ensure he will not have future problems with the potential new owners of Lots 12 & 13. His other concern is the easement of the ditch. This has been addressed in the Staff Report. Richard discussed another concern which is the flood hazard zone. He understands the homes will be built two feet above ground including the basements. He stated this will cover the homeowners but what about new owners that come in later. If they want to build a garage, they can do so with a 25 foot easement. They have a 75 foot setback covenant for the neighborhood. There is nothing about future building in this flood plain. Every time someone builds in a flood plain they are interrupting the water flow, the water has to go somewhere else. Where will the water go when the flooding happens? Will it go on his property? Also, the matter of cash in lieu for park land, he doesn't like it. Where are the kids going to go to play? There are no parks. There is no land for parks. Every developer comes in and buys it out. It is gone. The nearest park is 3 miles down the road in town Stevensville. He is against the subdivision development. It is rushed and has been pushed without concern for the existing landowners. He has not had ample time to contact his neighbors. He requested the Board slow down a bit.

Peri Henderson stated he is in agreement with Mr. Laubach's statement. With 20 homes coming in, where will the sewer go? When they punch 20 wells, what will happen with his well? The safety on the road is a huge concern with additional traffic. What happens when his well goes dry from the additional 20 homes? What happens with the 20 additional septic? He is against this subdivision.

Robert Vanderbyl stated his concerns are for the traffic on Pine Hollow Road. The traffic has already tripled since 1993. What about the school bus turnouts for the children? He does not understand why a 2000 census was used where the number of children was projected to be ½ a child as the number of children listed per household. He stated it should be brought up to the national standard of 2.5 children per household. He questioned how the water quality will be affected over the next ten to fifteen years. Who will be responsible for it? There are water rights to be proposed for Lots 17 through 20 and there are already fights regarding the water now. He doesn't know why irrigation rights have to be issued on residential property. His concerns as he has stated is the traffic and access on Pine Hollow Road. He stated the road should be widened and fixed before the subdivision is approved. He agreed this subdivision is being rushed through.

Charles Walker stated he does not understand how the two acre lots can be built when there is already an agreement for a minimum of 5 acre parcels. He doesn't know if it is coming from the '1 per 2 initiative'. He stated his other concern is public safety for the existing railroad crossing. The train runs twice on Wednesdays. No one knows the time or designated place the train is going to run. With the increase of children by the subdivision, is the developer going to put up crossing rails or flashing lights for safety?

Commissioner Rokosch called for the developer's representative to respond to the public comments.

Gilbert stated there are different classifications of flood and flood plains and different ways to deal with it. They have a defined elevation and a natural flood when water is retained. There are rules that apply to a flood plain. In this type of a situation, they have a flood flow with very different regulations and ways to handle it. They are not looking at a lot of water being there on a regular basis. It is a sheet flow flood were it flows across the site and into the ditch or stream. What they have proposed is to build the homes up two feet from the ground and grade it into a slope. In regards to sewage, it is not just disposed of, it is treated. With current Health Department regulations, the drain fields will be treated. They remove the organics and the harmful contaminates. As for where to place development, this is only a mile from Stevensville where growth is being encouraged. This is an appropriate place for development.

Commissioner Rokosch requested any public rebuttal comments of the developer's representative.

Robert Vanderbyl stated the concern is for safety of the public in the area. He is on the end of Baldwin and Burnt Fork which is the city limits of Stevensville. If you call the police, the Stevensville Police will not respond because they wait for a County Deputy. He felt that needs to be addressed.

Peri Henderson stated he has heard no response to what happens when his well goes dry when the 20 other wells are punched in. Who will pay for it? He thinks it is irresponsible to have that many houses and not consider the ramifications to the neighboring residents.

Commissioner Rokosch closed public comment. He stated the Planning Board Screening Committee has made a recommendation to not issue a full review by the Planning Board.

Commissioner Rokosch opened Board deliberation.

Commissioner Driscoll stated the deadline for action is October 3<sup>rd</sup>. This will allow the residents ample review time.

Commissioner Grandstaff asked how a property of 60 acres ended up with seven miner's inches of water. Gilbert replied the Dietz family who previously owned it, had limited water rights. It takes about an inch of water for one acre. It wasn't enough to serve the

land. He had hoped they could use the water rights for all of the lots. The use would have depleted the water supply. Their solution was to use it for Lots 16 through 20 only.

Commissioner Rokosch stated there is an aerial view map that shows the irrigation areas. The entire parcel has been irrigated. He asked what the surface water rights for this particular parcel are. There are also two different wells. He is confused about water access on this property. Gilbert replied there may have been times they took more than the 7 inches of water for irrigation. For the wells, they are for domestic use. The aquifer will be able to provide the water needed for domestic usages. Commissioner Rokosch asked what is the relationship of the water rights to the Supply Ditch. Gilbert replied there are 7 inches of water allowed out of the ditch. There is a pump set up and an irrigation system for the entire site.

Commissioner Driscoll asked about the water sheet flooding. She asked how it affects the septic. Gilbert replied they are not talking about a regular occurrence; this would only happen if the dam collapsed. If a standard sheet flow flood would happen, it would happen very quickly. The problem is water needing to move across it. There are regulations placing a drain field in a flood zone. There are no regulations of putting them in an area like this where it is just surface water. Commissioner Driscoll asked if something pollutes the water, how the developer will protect the citizens in the area. Gilbert replied they have studied this issue and have standards in place to make sure that won't happen. There will be types of systems for sewage, and the State has determined with a drain field, you have to have at least ½ an acre lot. If you are going to have a well and a septic system, you are required to have an acre lot. Commissioner Driscoll stated those are normal standards already in place, she is concerned about the possible pollution of the water. Gilbert replied they checked the depth of the aquifers and found they were greater than 10 feet in separation. What that tells them is this site does have the adequate filtration. There is more than enough separation between the proposed drain field and the aquifers to provide the filtration. They did several tests to determine if the types of soils on this site are suitable for treating the drain field. There is extra separation and they exceed the standards in place.

Commissioner Rokosch called for any additional comments.

Commissioner Driscoll asked how this would work with basements. Gilbert replied the concern is when water is flowing down hill; it has to have a path towards the Supply Ditch. They are recommending the homes be built up two feet and graded in a slope to make a drainage swale which would direct the flow to the supply ditch.

Commissioner Rokosch asked if the swale between Lots 16& 17 would direct the flow to the Supply Ditch. Gilbert replied it would. Commissioner Rokosch asked if the Supply would be used for the drainage. Gilbert replied he had tried to explain this earlier. They are not trying to increase the amount of water that is flowing off this site. If they had taken all of the water and channeled it to that ditch without doing anything to try to dispose of it, they would have increased the amount of water. What we have done is the opposite. They have controlled it with curves, sumps, and disposal. When the subdivision is

complete, they will have reduced the amount of water that is there. Then they look at what happens during an unusual storm; i.e., what would happen if they took on any excess water. Since the existing water will be reduced, it will then get filtered through the grass before entering into the supply ditch.

Commissioner Rokosch requested an explanation of how the water from the sumps is distributed. Gilbert replied each sump will be filled with river bed cobble and clean washed rock. They will vortex the water down which will hold quite a volume of water.

Richard Laubach stated Gilbert has not addressed MCA 76-5-402 (b) which states in part that 'residential homes are constructed on fill such that the lowest floor elevation (including basements) is two feet above the 100 year flood elevation'. Richard stated the developer is therefore in violation. Commissioner Chilcott replied this is not a 100 year flood plain. Civil Counsel Alex Beal replied that section of the code is talking about map defined flood plains like the Bitterroot River where they have a very 'accurate' idea of where they are. This is a potential flood zone where we have a 'vague' idea of where the water will channel, but it is not the regulation we are talking about.

Bill Burnett with PCI stated the Dietz purchased additional rights so they could irrigate their entire site. The developers do not plan to purchase additional rights. The rest of the residents will be allowed to irrigate a half acre around their property. He would like to address the septic system and possible pollution. When they do the analysis of the septic systems, they determine the travel time from the drain field from a lateral direction based on the way the ground water is used. They have to receive a certain reduction in nitrates and phosphates at the end of the period taking place on the two acre lot. There is really no fear of pollution. They have tabulated the depths of the wells to be around 77 feet. They have over 10 feet of unsaturated soil which will remediate the pollutants and trap any bacteria. Down below that are aqua-pollutants in the clay which don't transmit water rapidly. The two aquifers are separated and protected. They are only drawing from the protected aquifer. The flow is 26 gallons per minute. They don't see a problem with depletion. There is a very minimal chance of contamination. Commissioner Driscoll asked if they knew that for sure. Bill replied they are pretty sure. Commissioner Driscoll requested verification. Bill replied from 0 to 30 feet is the first aquifer, 33 to 53 feet they hit clay, then from 53 to 62 feet they have a sand and gravel. There is a very remote possibility of contamination.

Bill stated he would like to address the road situation. The developer will be paying a pro-rata share to upgrade Pine Hollow Road. The money goes into a general fund and is used to repair any road in the county. There is an adequate distance from the subdivision to the access road a minimum of 300 feet. They have met all of the standards. Commissioner Rokosch requested the calculation of the pro-rata share. Commissioner Chilcott replied it is \$25,848. The assessment to bring the road up to county standards is \$261,000.

Robert Vanderbyl stated in regard to computing the share and putting it in a fund, it looks good on paper but when will the road be fixed? Commissioner Rokosch replied he



understands Robert's concern. The pro-rata share isn't enough to fix the on site location. Being able to pool these funds, the hope is to be able to make significant improvements. Robert replied like he said, it looks good on paper but they live there. Commissioner Chilcott stated the monies go into that grader district.

Commissioner Grandstaff stated in the irrigation plan, Lots 16-20 will get their irrigation water from the supply ditch. It is stated the even number lots will irrigate on even number days and the odd number lots on the odd number days. Does this mean the other lots can only use their domestic well to irrigate? She felt that didn't seem realistic. She stated she does not know how this can be enforced. Bill replied the homeowners association will have to be the watchdogs. They are also maintaining the fence along the ditch. It is kind of a self monitoring situation. As for the supply ditch, it has to be with the ditch rider. People will not be able to drill additional wells. There is only one well per lot allowed. Commissioner Grandstaff asked how that will be enforced. Bill replied it will be enforced by the Health Department and DEQ. Commissioner Grandstaff stated the DEQ is in Helena. If people want a well drilled, they are going to go ahead and do it. Commissioner Chilcott stated he doesn't think a well driller would install a well without a permit.

Commissioner Chilcott stated his concern is with the lots being approximately 3 acres. As a homeowner, you take care of about 1 acre and then you have the remainder that is not going to support livestock. His concern is the amount of knapweed habitat being created. Commissioner Rokosch added the prior owner secured additional water rights. He asked why the developer has chosen not to continue the additional water rights. Bill replied they had to do something with the water rights because they can't be ignored. Either they retain the rights or they could sell the rights off to another individual in the same basin. This is the solution they came up with and they need to follow through with it. Commissioner Rokosch asked what has happened with those rights. Bill replied they do not have access to those rights. The only accessible rights are through the ditch.

Robert asked if there is going to be a homeowners association and if there is going to be a livestock covenant. Commissioner Rokosch replied there is a two horse limit and domestic animals being cats and dogs. Commissioner Grandstaff stated two horses on land that is not really irrigated doesn't make any sense.

Commissioner Driscoll stated the water is the main concern here. Charles stated when he bought this property in 1993 the well was about 50 feet deep. He has now brought his well to 120 feet deep. He believes that 77-85 feet would have been acceptable. Richard stated every one of the existing landowners has had to drill new wells because the other ones have gone dry. His parents and he had to drill new wells in 1996. The old wells were 50 feet deep and the new ones are now 80 feet. Brief discussion followed. Commissioner Driscoll stated this subdivision is close to town and that argument will be made many more times. Commissioner Rokosch stated if there are impacts, the landowners have the responsibility to bring forth those impacts. Civil Counsel Alex Beal added when applying for a new water right, (being a domestic well), they can't really turn it down with a community supply well. If there is an objection, DNRC is supposed to notify the people being affected by the water rights. With domestic ones, it is a different process.

Commissioner Rokosch stated there is a letter of comment from the Department of Natural Resources and Conversation for a community water system. Gilbert replied they gave consideration to it; however with the amount of regulation, it would be a public system and it is not economically feasible. The amount of water being drawn would be the same in either case. It made more sense to go with individual wells. Commissioner Rokosch read a portion of the letter and stated the public water system will require the developer go through the water right permit process. Gilbert replied a municipal water district would be ideal which would include large reservoirs, fire protection, and fire hydrants. It would require a water district be formed. They determined individual wells were more feasible. Commissioner Rokosch replied he has to evaluate the balance between density and what they are able to cover. He felt the density being proposed needs to be reviewed. Brief discussion followed regarding the recommendations.

Commissioner Chilcott stated he would like to discuss the fence issue. He stated if the fence is on Richard's property then it is his fence and he should be responsible for the maintenance. If his neighbor would like to put up a chain linked fence he does not see the issue. Richard replied the beginning of the fence is not on his property. He does not know for sure if the fence is on his property or not. He would like something to state the fence is his and he is responsible to maintain it and also if anyone else comes along it is stated somewhere they cannot change the fence. Commissioner Chilcott asked where the fence is located. Gilbert replied he does not know for sure. Commissioner Chilcott stated the fence along the ditch is for safety. The other property fencing is for individual use. Richard requested clarification if the fence belongs to lots on the proposed subdivision or if it is his. He can only find one pin on his property. His concern is when the new owners come in, will they want to replace the fence to something more pleasing to the eye. Gilbert replied the owner believes it is not on their property. Scott will agree to allow Richard to move it onto his property. Richard argued he does not want to have to pay to have the fence moved. Scott agreed to pay to have the fence moved onto Richard's property.

Commissioner Chilcott addressed the issue of cash in lieu of park land. Commissioner Thompson stated the goal of the Park Board is to develop Regional Parks.

Commissioner Chilcott addressed the issue of the well and sewer. He noted Alex stated the right to drill a well producing 35 gallons a minute. He stated there is no law restricting the effects of other landowners. Perry replied they should drill their wells down to 100 feet so as to not affect the existing wells. Commissioner Chilcott stated it was addressed in the Findings of Fact. They are talking about the one acre standard which allows a well and a septic, still keeping it safe. These are three acre lots. He disagrees with the Chairman. The Board received a comment from the Department of Natural Resources and Conservation, not a recommendation. He does not think with the standards set by DEQ they are going to see problems with the septic. As far as the Railroad Crossing, it is under direct control of the railway. They have there own standards.

Commissioner Rokosch stated with the public system, they have notification of the landowners and the ability to object. They would have testing and monitoring requirements. Those are some measures to address the concerns of public health and safety.

Commissioner Chilcott addressed the issue of the school bus stops. He wants to make sure children can get on and off the bus safely. Gilbert replied they have looked at the location of where the buses can stop. He suggested a turn around and a rounded road. Commissioner Thompson stated the school system will not run on a road that is not considered a county road. They prefer to utilize the stop signals for traffic. Gilbert asked how they can do this. Commissioner Grandstaff suggested building a bus stop structure to protect the children against the elements while waiting for the bus. Scott agreed to the structure and suggested it be built on Lot 20.

Commissioner Chilcott asked if Mrs. Dietz house needs a replacement system. John replied they are checking on septic permits for the existing dwellings. Commissioner Driscoll stated they need to make sure the septic systems are good. John replied it could be required if the existing septic system is within standards. Commissioner Driscoll stated she would like to know what is under that ground prior to any decisions. Commissioner Chilcott stated the developer could investigate the location, condition and system and make sure they meet the existing standards. Commissioner Rokosch suggested accepting the Staff Recommendation as presented.

Richard asked if it would be possible to have some kind of an agreement 'of cause and effect in place for the wells'. Alex replied they can draw up an agreement but they cannot enforce it. Commissioner Rokosch stated the Board does have authority to adopt more stringent regulations than the State.

Charles asked how they could punch wells in an area that does not have adequate water supply. Gilbert replied they look at the well logs in the area for production purposes in order to see if there is adequate water. Bill replied they do have a well log chart in the report. There is a constant replenishment of the water supply being poured in from the Bitterroot River and the mountain runoffs. The DNRC letter states this proposal for water supply is not in conflict with the Montana Water Use Act.

Commissioner Rokosch noted no offer of school or law enforcement contributions for mitigation purposes. He requested a motion to continue this hearing in order to discuss those contribution and the impacts of the loss of agricultural ground. There are also two letters submitted for this hearing that have not been addressed. Some discussion occurred in regard to continuing this meeting. No motion was made.

Commissioner Thompson suggested utilizing a draw down test to address the concerns of the water. He thinks it would address the concerns of the landowners as well. Gilbert replied it is a good test especially where there is an aquifer, and it should be made a standard on the regulations. Commissioner Thompson also requested Gilbert address the on site location of the mail boxes according to the Post Office requirements.

Commissioner Grandstaff also addressed the sidewalks that are needed in the subdivision. Commissioner Rokosch suggested the Board submit their requests for certain issues that need mitigation. He asked for those items by tomorrow so Gilbert would have ample time to address them prior to the next meeting.

Commissioner Grandstaff made a motion to continue this public hearing to September 18<sup>th</sup> at 9 a.m. Commissioner Driscoll seconded the motion, all voted 'aye'.

Minutes: Glenda Wiles

In other business the Board met briefly with Administrative Assistant Glenda Wiles in regard to the cooling issues at the Courthouse which include a sewer gas smell. After discussion it was agreed Glenda should make contact with Jeff Emmert of Emmert Electric in order to have a meeting in order to correct this issue. Shortly thereafter, the Board met with Jeff learning the results of the water testing and what he felt might correct the problem in regard to the sewer gas. Commissioner Chilcott made a motion to have Jeff Emmert oversee the correction of the sewer gas smell by sealing the tank at the courthouse. Commissioner Thompson seconded the motion and all voted "aye".